UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

EDNY Form October 12, 2007

-----------------------------X

IN THE MATTER OF AN APPLICATION OF THE UNITED STATES OF AMERICA FOR AN ORDER AUTHORIZING THE INTERCEPTION OF WIRE COMMUNICATIONS OCCURRING OVER VIRGIN MOBILE CELLULAR TELEPHONE 718-419-7727, ESN #03401214900, SUBSCRIBED TO SHION R. BROWNE, 958 EAST 104TH STREET, BROOKLYN, NY 11236, UTILIZED BY ANTOINE ENGLISH.

-----------------------------X

AFFIDAVIT

Misc. Docket No. 08-266 (DLI)

EASTERN DISTRICT OF NEW YORK, SS:

Amber Howell, a Special Agent of the DEA, being duly sworn, deposes and says:

1. I am a Special Agent of the United States Drug Enforcement Administration ("DEA") , duly appointed according to law and acting as such. I have been a DEA Special Agent since September 2007 and am currently assigned to the New York Field Division, where I am tasked with investigating narcotics trafficking, money laundering and other offenses. As such, I am an investigative or law enforcement officer within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516. Among other duties, I am participating in an investigation relating to money laundering and the distribution of controlled substances by ANTOINE ENGLISH, FNU LNU, OWEN JOHNSON, GERALD SPEARS, RICHARD MEADE and others as yet unknown (the "SUBJECT INTERCEPTEES" or "SUBJECTS").

2. During my tenure with the DEA, I have participated in numerous narcotics investigations during the course of which I have (a) conducted physical and wire surveillance; (b) executed search warrants at locations where drugs, drug proceeds and records of narcotics and money laundering transactions have been found; (c) reviewed and analyzed numerous taped conversations and records of drug traffickers and money launderers; (d) debriefed cooperating drug traffickers and money launderers; (e) monitored wiretapped conversations of drug traffickers and reviewed line sheets prepared by wiretap monitors; and (f) conducted surveillance of individuals engaged in drug trafficking and money laundering. Through my training, education and experience, I have become familiar with (a) the manner in which illegal drugs are imported and distributed; (b) the method of payment for such drugs; and (c) the efforts of persons involved in such activity to avoid detection by law enforcement.

3. This application seeks authorization to intercept the wire communications of the SUBJECTS and others involving offenses enumerated in Section 2516 of Title 18, United States Code, that is (a) the importation, distribution and possession with intent to distribute controlled substances, and the use of wire facilities to facilitate the same, (b) money laundering, (c) conspiracy to do the same, and (d) aiding and abetting these offenses, all in violation of Title 21, United States Code, Sections 841, 843, 846, 952 and 963, and Title 18, United States Code, Sections 1956 and 2.

4. Based on the facts set forth below, there is probable cause to believe that:

(a) the offenses set forth in paragraph 3 above are being committed and will continue to be committed by ANTOINE ENGLISH, FNU LNU, OWEN JOHNSON, GERALD SPEARS, RICHARD MEADE and others whose identities are presently unknown.

(b) the particular wire communications of the SUBJECT INTERCEPTEES concerning these offenses will be obtained through the interception of 718-419-7727, ESN 03401214900, subscribed to SHION R. BROWNE, 958 EAST 104th STREET, BROOKLYN, NY 11236, (the "SUBJECT TELEPHONE");

(c) evidence of these offenses, including (1) the nature, extent and methods of operation of the drug business of the SUBJECT INTERCEPTEES and others as yet unknown; (2) the identities and roles of accomplices, aiders and abettors, co-conspirators and participants in their illegal activities; (3) the distribution and transfer of the contraband and money involved in those activities; (4) the existence and location of records; (5) the existence, location and source of resources used to finance their illegal activities; (6) the existence, location and disposition of the proceeds from those activities; and (7) the existence and locations of items used in furtherance of those activities, will be obtained through the interception of wire communication occurring over the SUBJECT TELEPHONE, which has been and is being used by the SUBJECT INTERCEPTEES in the commission of those offenses. The requested orders are sought for a period of time until the interceptions fully reveal the manner in which the above-described offenses are being committed, or for a period of 30 days, whichever occurs first, pursuant to Title 18, United States Code, Section 2518.

5. It is anticipated that during the requested wire surveillance, all monitoring will be performed or supervised by Special Agents of the DEA or other law enforcement officers assigned to this investigation, or employees or individuals operating under a contract with the government, all of whom will be acting under the supervision of investigative or law enforcement officers authorized to conduct the interceptions. It is requested that, if necessary, certain other individuals be authorized to assist in conducting this wire surveillance and to receive disclosure of

intercepted communications.

6. I personally participated in the investigation of the offenses referred to in paragraph 3 above, and from my personal participation in this investigation and from reports made to me by other Special Agents, local police departments, confidential informants, and from reports of physical surveillance, I am familiar with the facts and circumstances of this investigation. Except where otherwise noted, the information set forth in this Affidavit has been provided to me by police officers, DEA Special Agents or other law enforcement officers assigned to the DEA or confidential informants. Because this Affidavit is being submitted for the limited purpose of seeking authorization for the interception of wire communications, I have not set forth each and every fact learned during the course of this investigation, but simply those facts which I believe are necessary to establish probable cause to conduct the requested wire surveillance. Where specific recorded conversations of SUBJECT INTERCEPTEES are described, they are set forth in part and in substance. Based upon this knowledge, I allege the facts contained in the paragraphs below to demonstrate that:

SUBJECTS AND OFFENSES

7. There is probable cause to believe that the SUBJECT INTERCEPTEES and others yet unknown, have committed, are committing and will continue to commit the following offenses: (a) the importation, distribution and possession with intent to distribute controlled substances, and the use of wire facilities to facilitate the same, (b) money laundering, (c) conspiracy to do the same, and (d) aiding and abetting these offenses, all in violation of Title 21, United States Code, Sections 841, 843, 846, 952 and 963, and Title 18, United States Code, Sections 1956 and 2.

THE SUBJECT TELEPHONE

8. There is probable cause to believe that the SUBJECT INTERCEPTEES and others whose identities are presently unknown will be communicating during the period of interception over the SUBJECT TELEPHONE in furtherance of, in connection with, to facilitate, to accomplish and to commit the offenses described in paragraph 7 above.

OBJECTIVES

9. There is probable cause to believe that the interception of wire communications, the authorization for which is sought herein, will reveal: (1) the nature, extent and methods of operation of the drug business of the SUBJECT INTERCEPTEES, and others as yet unknown; (2) the identities and roles of accomplices, aiders and abettors, co-conspirators and participants in their illegal activities; (3) the distribution and transfer of the contraband and money involved in those activities; (4) the existence and location of records; (5) the existence, location and source of resources used to finance their illegal activities; (6) the existence, location and disposition of the proceeds from those activities; and (7) the existence and locations of items used in furtherance of those activities. In addition, these wire communications are expected to constitute admissible evidence of the commission of the above-described offenses.

PRIOR APPLICATIONS

10. A check of the Drug Enforcement Administration, Federal Bureau of Investigation ("FBI") and Department of Homeland Security, Immigration and Customs Enforcement ("ICE") wire surveillance indices as of on or about June 12 , 2008, has revealed that there have been no prior applications for wire, oral or electronic surveillance of the SUBJECT INTERCEPTEES or with respect to the SUBJECT TELEPHONE.

SOURCES OF PROBABLE CAUSE

BACKGROUND

11. On or about Spring 2008, agents from the United States Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") developed information that ANTOINE ENGLISH was selling large quantities of crack in East New York and that he was receiving the drugs from a Jamaican supplier. Specifically, in early April 2008, ATF learned from a confidential source of information ("CS"[1]) that ENGLISH, a neighborhood drug dealer that the CS has known for over ten years, was selling crack and able to access large quantities of the product.

12. Approximately a week after learning this information, ATF had the CS place a recorded phone call to ENGLISH at 646-775-1988 (a phone subscribed to by ENGLISH), to arrange a meeting where they could discuss a possible future narcotics transaction. They met later that same day.

13. Prior to the meeting which took place later that same day, ATF agents searched the NCIC database for an "ANTOINE ENGLISH," and discovered that a person by the same name, born May 6, 1972, resided in Brooklyn and was recently arrested by the New York City Police Department on March 24, 2008 for Criminal Sale of a Controlled Substance in the Third Degree.. That database also provided a photograph of this individual taken after this arrest. ATF agents surveilled the aforementioned meeting between the CS and ENGLISH and determined that

[1] The information provided by the CS in this investigation proved to be accurate, reliable and has been corroborated. The CS has provided ATF information in the past which also proved to be reliable. Specifically, he/she has been working with ATF over the past four years and has provided information that has lead to 20 arrests in narcotics and firearms cases, 18 of which resulted in an indictment. To protect the CS's identity, dates concerning his/her involvement with this investigation are left intentionally vague.

the person depicted in the photograph and the person meeting with the CS were one and the same person.[2]

14. During this meeting, the CS wore a recording device and asked ENGLISH if he could provide him/her with around three ounces of crack. ENGLISH responded by saying that he was not sure and had to make a phone call. In the presence of the CS, ENGLISH took out his cellular phone and made a call to an unidentified individual, FNU LNU. While ENGLISH asked the individual in English if that quantity of drugs would be available for a sale in the immediate future, the majority of the rest of the conversation was in Jamaican Patois. Toll records for ENGLISH's 646-775-1988 number indicate that the call in question was made to 347-755-3739, a number subscribed to by OWEN JOHNSON, with a listed address of 2019 Union Street, Brooklyn, NY 11212. (The user of this phone will be referred to throughout as "FNU LNU"). Immediately after the call with FNU LNU, ENGLISH indicated to the CS that he would be able to provide that amount of crack, and that it would be available the next day. At agents' direction, the CS met with ENGLISH the next day and purchased three ounces of crack from him. A DEA laboratory report confirmed that the substance purchased by the CS was crack cocaine.

15. Approximately a week later, the CS called ENGLISH again at the same phone number to discuss another drug transaction. During this call ENGLISH told the CS to call him back right away on the SUBJECT TELEPHONE. The CS complied, and agents recorded the call. On the call, the CS and ENGLISH discussed another crack deal, and the CS set up a meeting between

---

[2] A search of the same database reveals that ENGLISH has one prior arrest, from September 12, 1988 in Kings County, NY for Robbery in the 1st degree. The disposition is unknown at this time, likely because ENGLISH would have been considered a Youthful Offender for sentencing purposes. The case stemming from the March 24, 2008 arrest mentioned above is still pending in Kings County Supreme Court.

ENGLISH and a NYPD undercover officer.

16. As discussed on the call, CS and the undercover officer met with ENGLISH later that same day. Agents recorded the conversation during this meeting and conducted video surveillance of this meeting. During this meeting, the undercover officer purchased three ounces of crack from ENGLISH. A DEA laboratory report confirmed that the substance purchased by the undercover officer was crack cocaine.

17. Approximately two weeks later, the CS called ENGLISH on the SUBJECT TELEPHONE and told him that the undercover officer wanted to purchase more crack from him. The CS gave ENGLISH the undercover officer's phone number. That same day, toll records reveal that ENGLISH used the SUBJECT TELEPHONE to place this call to the undercover officer. The undercover officer stated during the call, which was recorded, that he wanted to purchase four more ounces of crack from ENGLISH. ENGLISH replied that he would be able to supply that amount of crack that same day. At a meeting later that same day, the undercover officer purchased four more ounces of crack from ENGLISH. A DEA laboratory report confirmed that the substance purchased by the undercover officer was crack cocaine.

18. In mid-to-late May 2008, the CS called ENGLISH again on the SUBJECT TELEPHONE and told him that the undercover officer wanted to purchase more crack from him. The CS gave ENGLISH the undercover officer's phone number. That same day, ENGLISH called the undercover officer, and this call was placed from the SUBJECT TELEPHONE. The undercover officer stated during this recorded telephone call that he wanted to purchase another four ounces of crack from ENGLISH. ENGLISH replied that he would be able to supply that amount of crack that same day. At the meeting later that same day, the undercover officer purchased another four ounces

of crack from ENGLISH. A DEA laboratory report confirmed that the substance purchased by the undercover officer was crack cocaine.

19. In total, the CS and undercover officer together purchased approximately 14 ounces of crack from ENGLISH.

TOLL ANALYSIS OF THE SUBJECT TELEPHONE

20. Law enforcement obtained toll records for the SUBJECT TELEPHONE from January 28, 2008 to June 4, 2008 (the "covered period."). The service provider for the subject telephone is VIRGIN MOBILE USA, L.P.[3] The toll records show that the SUBJECT TELEPHONE made and received 9,273 calls during the covered period, an average of 131 calls per day. These include 24 telephone calls with the undercover officer, 76 with the CS, and 480 with FNU LNU. In my opinion, based on my training, this call activity is consistent with ENGLISH acting as a drug dealer.

21. On May 21, 2008, the Honorable Roanne Mann, United States Magistrate Judge for the Eastern District of New York, ordered the installation and use of a pen register and a trap and trace device on the SUBJECT TELEPHONE, which is due to expire on July 20, 2008. In addition, the toll records and the pen register reveal the following.

347-755-3739

22. Toll records and the pen register reveal that during the covered period there were more than 480 contacts between the SUBJECT TELEPHONE and telephone number 347-755-3739 (the "3739 Telephone"), subscribed to by OWEN JOHNSON, with a listed address of 2019

[3] The government also asks that this order be addressed to SPRINT NEXTEL, because VIRGIN MOBILE USA, L.P. uses SPRINT NEXTEL channels and towers to transmit and receive signals in the New York area.

Union Street, Brooklyn, NY 11212, with the most recent call occurring on June 5, 2008. The toll records also reveal that the SUBJECT TELEPHONE contacted the 3739 Telephone within a short period of time, either just before or after, and, in one case, during, each of the narcotics transactions mentioned above. The toll records further reveal that the 3739 Telephone has been in recent contact with several Jamaican phone numbers, which is consistent with the information developed by ATF that the source of ENGLISH's crack is based in Jamaica. In my opinion, based on my training, experience and knowledge of the investigation to date, this call activity is consistent with the user of the 3739 Telephone acting as a supplier of drugs to ENGLISH.

23. Toll records further reveal that the 3739 Telephone called 718-484-8375 (the "8375 Telephone"), a telephone which, between December 2007 and February 2008, contacted 973-474-6926 (the "6929 Telephone"), subscribed to by JOSE MARTINEZ, 974 South 21st Street, Irvington, NJ, that DEA records show was used by RICHARD MEADE. MEADE was the target of an investigation of a large scale cocaine and marijuana importation conspiracy and was arrested by the DEA in connection with it on April 10, 2008. He is currently being held on bail and has since been indicted for this offense. Toll records reveal that the 8375 Telephone and the 6929 Telephone were in contact 17 times between December 2007 and February 2008, prior to MEADE's arrest. Based on the frequency of contacts with the 6929 Telephone, we believe that the individual using the 8375 Telephone may be part of MEADE's drug organization since not all members of his organization have been arrested.

24. Toll records reveal that the 8375 Telephone called the 3739 Telephone three times between the period of April 1, 2008 to May 21, 2008, most recently on May 13, 2008.

25. Over the period of May 23, 2008 to June 5, 2008, the pen register on the

SUBJECT TELEPHONE reveals that the SUBJECT TELEPHONE and the 3739 Telephone were in daily contact, most recently on June 5, 2008.

(718) 455-1529

26. Toll records and the pen register reveal that during the covered period, most recently on May 26, 2008, there were 90 contacts between the SUBJECT TELEPHONE and telephone number (718) 455-1529 (the "1529 Telephone"), subscribed to by GERALD SPEARS, 78 Aberdeen Street, Floor 2, Brooklyn, NY. GERALD SPEARS was convicted in New York State Supreme Court on October 2, 1991 for a drug-related felony offense. SPEARS also was arrested locally for possession of narcotics in Scranton, Pennsylvania, in 2005 and is presently at liberty. Agents searched the apartment in which he was found pursuant to a search warrant and seized 40 grams of cocaine, a hand scale and narcotics packaging. Records also reveal that SPEARS was convicted of possession of a weapon in New York State Supreme Court in 2002.

27. The pen register for the SUBJECT TELEPHONE reflects that during a three-day period, from May 24, 2008 to May 26, 2008, the SUBJECT TELEPHONE and the 1529 Telephone contacted each other eight times, including four times on May 25, 2008 alone. In my opinion, based on my training, experience and knowledge of the investigation to date, this heavy call volume with the two telephones associated with individuals with histories of involvement with drug trafficking is indicative of use of the SUBJECT TELEPHONE to communicate regarding the subject offenses.

ALTERNATIVE INVESTIGATIVE TECHNIQUES HAVE BEEN TRIED AND FAILED OR APPEAR REASONABLY UNLIKELY TO SUCCEED IF TRIED OR ARE TOO DANGEROUS TO EMPLOY

28. The goals of this investigation are set forth above. Several investigative techniques have been tried and failed, reasonably appear likely to fail to achieve all the goals of this investigation, or are too dangerous to employ.

Confidential Informants

29. While this investigation has used a CS, his/her connection to the larger organization beyond ENGLISH is of limited value. The CS has not been able to establish contact with FNU LNU, the individual connected with the 3739 Telephone and the likely supplier to ENGLISH. The CS is not Jamaican and has no ties to any possible Jamaican suppliers. ENGLISH has ensured that the identity of the supplier(s) remain secret and has not used any names or made any reference to them in the CS's presence. The CS will not be able to obtain knowledge as to how the supply chain works, who its members are or any other critical fact the DEA seeks to learn about how ENGLISH is able to access such large amounts of crack in such a short period of time. More generally, based on my training and experience, I know that narcotic traffickers will only work with individuals they know and trust well, either through friends, family or close associates, to ensure their safety.

30. Moreover, based upon my training and experience, I know that, in general, narcotics traffickers often compartmentalize aspects of their operations so as to impede law enforcement's ability to identify and dismantle their entire drug trafficking operation. Based upon my knowledge of this case and this particular organization, I believe that the confidential source

utilized to date cannot enable law enforcement to uncover the full scope of the criminal conspiracy. Full participation of the confidential source in the organization does not at present appear likely, and we can only use the confidential source to gather information to a limited degree to prevent the other members of the organization who are under investigation from suspecting that he/she is a government agent.

Undercover Agents

31. While the undercover officer has provided valuable evidence, the undercover officer cannot help us accomplish all of the goals of the investigation. The undercover officer has not been able to establish contact with any member of the organization other than ENGLISH. Moreover, ENGLISH has used extreme caution in sharing information with the undercover officer. For example, ENGLISH would not even give the undercover officer his phone number, and calls from ENGLISH to the undercover officer have come from a blocked phone number. Clearly, someone taking these precautionary steps is careful about possible law enforcement activity and hence an undercover agent will not penetrate very far into the organization. The same reasons that make it unfeasible for an informant to infiltrate the organization at this time, make it unreasonable to expect an undercover agent to do so.

Surveillance

32. Fellow agents and I have had a very difficult time conducting surveillance of the user of the SUBJECT TELEPHONE, because ENGLISH is very suspicious of outsiders who are not from his neighborhood. For example, on one of the occasions where the CS went to meet with ENGLISH to purchase narcotics, ENGLISH told the CS "it's too hot, come back later." When ATF surveillance teams withdrew from the area, ENGLISH then found the

conditions more suitable and completed the transaction with the CS. ENGLISH also constantly circles the block in his automobile before leaving his area and does so while constantly checking his rearview mirror. He employed this maneuver as recently as June 2, 2008, when I tried to follow him. This makes it very difficult to conduct surveillance because he will likely detect our presence if we persist in our efforts. We also have been unable to conduct surveillance on ENGLISH's suspected supplier of the narcotics, FNU LNU, because his identity is unknown.

33. Because ENGLISH lives in an apartment building, conducting surveillance outside his residence is not likely to be useful, as observing his coming and goings from such a building is difficult when there are many occupants. Moreover, there is thick scaffolding covering the building in front of where he operates making it difficult to observe him from a safe distance.

34. Surveillance, even when combined with other conventional investigative techniques, is not reasonably likely to enable the government to achieve the goals of this investigation. For example, given the volume of calls between ENGLISH and his suspected supplier, it is difficult to determine without the assistance of wire interception when surveillance should be conducted. Furthermore, we have not developed any information concerning where or how ENGLISH receives the narcotics that he distributes from his supplier.

35. Based on my training and experience, I believe that surveillance alone will not enable law enforcement to achieve the goals of this investigation. As discussed above, because several of the suppliers of the narcotics and others have not been fully identified, searches of their residences or vehicles would be impossible at this time. Furthermore, even if additional locations were identified, a search of a SUBJECT INTERCEPTEE's residence or

vehicle would be premature and would disclose the existence of this investigation, effectively ending it long before law enforcement has identified all of the suppliers, customers, methods of supply and methods of distribution.

36. Surveillance is not expected to provide detailed evidence regarding the drug distribution operation in question, such as the identity and role of all accomplices, aiders and abettors co-conspirators and other participants in the operation unless surveillance is done in conjunction with the monitoring of the SUBJECT TELEPHONE so that the agents can anticipate when and perhaps where transactions will take place. Based upon my experience investigating narcotics cases, I believe that transactions engaged in by SUBJECT INTERCEPTEES will occur in a covert manner where physical surveillance of those activities would be difficult. Moreover, continued intensive surveillance is likely to alert the SUBJECT INTERCEPTEES that their activities are being monitored and could result in the temporary cessation of their illegal activities or a change in their methods.

Search/Arrest Warrants, Grand Jury and/or Witness Interviews

37. The use of search warrants, investigative grand juries and interviews is premature. Seeking search warrants at this time would be premature because the investigation has not yet identified with any precision where the SUBJECT INTERCEPTEES and their accomplices will keep all of their controlled substances, money or other evidence of their criminal activity. Moreover arrest and/or search warrants would not likely result in the identification of all the other members of the conspiracy or the discovery of the full nature and extent of the illegal activities of the SUBJECTS and their co-conspirators. Thus, we believe that it would be premature to seek arrest warrants at this time.

38. Based upon your affiant's experience and conversations with Assistant United States Attorney Todd Kaminsky, who has experience prosecuting violations of criminal law, your affiant believes that subpoenaing persons believed to be involved in this conspiracy and their associates before a Federal Grand Jury would not be completely successful in achieving the stated goals of this investigation. If any principals of this conspiracy, their co-conspirators and other participants were called to testify before the Grand Jury, they would most likely be uncooperative and invoke their Fifth Amendment privilege not to testify. It would be unwise to seek any kind of immunity for these persons, because the granting of such immunity might foreclose prosecution of the most culpable members of this conspiracy and could not ensure that such immunized witnesses would provide truthful testimony. Additionally, the service of Grand Jury subpoenas upon the principals of the conspiracy or their co-conspirators would only alert them to the existence of this investigation, causing them to become more cautious in their activities, to flee to avoid further investigation or prosecution, to threaten the lives of the informants, or to otherwise compromise the investigation.

Pen Register Data

39. There currently is a pen register on the SUBJECT TELEPHONE. However, toll records and pen register data are of limited value. The pen register only indicates the numbers calling to and from the SUBJECT TELEPHONE. The pen register cannot provide the nature of the communications occurring over the SUBJECT TELEPHONE, or the identities of the speakers participating in those communications. Thus, interceptions of conversations over the SUBJECT TELEPHONE will likely provide further information relating to the identities of accomplices and will provide evidence of the crimes the SUBJECT INTERCEPTEES and their

accomplices have committed and will commit.

Consensually Recorded Calls

40. Although law enforcement officials have had some ability in the past to obtain consensual recordings of phone conversations between the CS, and undercover officer and ENGLISH, the success of these recordings is limited by the ability of the CS and the undercover officer to penetrate the organization. At present, the investigation does not have access to an informant or an undercover agent who is involved in all of the unlawful activities of the organization. For example, we do not have informants who have the ability to deal directly with ENGLISH's source(s) of supply. Even if we had such an informant, for the reasons stated above, the informant would not likely be able to infiltrate the organization to sufficiently gather information about the organization's full scope of activities, such as the sources of supply, locations where drugs and money are stored, and money laundering methods. Accordingly, consensual recordings are not sufficient to accomplish all of the goals of this investigation.

Other Wiretap Investigateions

41. At this time there is no other known wiretap investigation that can provide information about this specific narcotics-trafficking operation..

Trash Inspection

42. Based upon my knowledge of the investigation to date, I believe that it is unlikely that a refuse inspection of the SUBJECTS' trash would reveal any information about the members of the scheme, or their respective roles, nor would it provide probable cause for a search warrant. ENGLISH lives in an apartment building, making it difficult to perform a trash search at that location. I and other agents have not observed any trash outside the location. In an

apartment building of that size, it is my experience that the building either has its own trash compactor or incinerator, or in the alternative trucks the garbage away from the building through an internal garage. This makes it nearly impossible to look into ENGLISH's garbage, since his refuse along with that of all the occupants of the building is mixed together in a common location. It would also likely alert someone to police interest in the residents of the building were someone to be found looking into the building's garbage.

Criminal Database Checks

43. Fellow agents, analysts and I have run the names of the targets through various databases. For example, as noted above, we have run all the names of the SUBJECT INTERCEPTEES through the DEA, FBI and ICE wire surveillance indices. Moreover, those names have been run through other databases, such as NADDIS and NCIC. While database checks are useful in that they inform us of past investigations and to some extent the history of the SUBJECTS, to date, database checks, standing alone, are not sufficient to allow the DEA to achieve all of its objectives of the new investigation. Database checks alone cannot be expected to achieve all the goals of the instant investigation, such as identifying the employees, customers, distributors, and locations where drugs and money currently are stored.

MINIMIZATION

44. Special Agents of the DEA and other authorized officers and monitors will only make such interceptions as are consistent with the objectives of this application and the Court's Orders. All such interceptions will be minimized in accordance with Chapter 119 of Title 18, United States Code. Interception will be suspended immediately if it is determined through voice identification, physical surveillance or otherwise that neither the named

interceptees nor any other co-conspirators are participants in the conversation, unless it is determined during the portion of the conversation already overheard that the conversation is criminal in nature. Agents will monitor all wire communications to determine if a party to the conversation is a conspirator. If, while making this identification, a conversation concerning criminal activities is overheard, monitoring may continue. Monitoring will be discontinued if, while making this identification, the agents determine that the conversation does not involve a conspirator and is not criminal in nature. If monitoring is discontinued, the monitoring agents and/or officers will spot check to determine if one of the interceptees or their co-conspirators, when identified, is using the SUBJECT TELEPHONE, or if the conversation is criminal in nature. All individuals conducting the interception will be instructed concerning the steps they must take to avoid infringing upon any attorney-client privilege or other recognized privilege.

CONCLUSION

Request for Permission to Intercept. Based on the allegations set forth in this Affidavit and the application of Assistant U.S. Attorney Todd Kaminsky, attached, the affiant requests this Court to issue an order pursuant to the power conferred upon it by Section 2518 of Title 18, United States Code, authorizing the DEA to intercept wire communications to and from the above-described SUBJECT TELEPHONE until such communications are intercepted that reveal the manner in which the named violators and others unknown participate in the specified offenses and reveal the identities of their coconspirators, places of operation, and nature of the conspiracy, or for a period of 30 days measured from the day on which investigative or law enforcement officers first begin to conduct an interception under this order or ten (10) days after this order is entered, whichever is earlier.

Authorization to Intercept. WHEREFORE, IT IS REQUESTED THAT THE COURT ORDER that Special Agents of the DEA and any such federal and local law enforcement officers participating in the investigation are authorized, pursuant to an application authorized by a duly designated official of the Criminal Division, United States Department of Justice, pursuant to the power delegated to that official by special designation of the Attorney General and vested in the Attorney General by Section 2516 of Title 18, United States Code, to intercept wire communications to and from the SUBJECT TELEPHONE.

Period of Interception. IT IS REQUESTED FURTHER THAT THE COURT ORDER that such interception shall not terminate automatically after the first interception that reveals the manner in which the alleged co-conspirators and others as yet unknown conduct their illegal activities, but may continue until all communications are intercepted which reveal fully the manner in which the above-named persons and others as yet unknown are committing the offenses described herein, and which reveal fully the identities of their confederates, their places of operation, and the nature of the conspiracy involved therein, or for a period of thirty (30) days measured from the day on which investigative or law enforcement officers first begin to conduct an interception under this order or ten (10) days after this order is entered, whichever is earlier.

Portability. IT IS REQUESTED FURTHER THAT THE COURT ORDER that the authorization applies not only to the telephone number currently assigned to the SUBJECT TELEPHONE, but also to any changed telephone number or any other telephone number subsequently assigned to or used by the instrument bearing the same ESN as the SUBJECT TELEPHONE and to and to any changed ESN accessed through the SUBJECT TELEPHONE within the thirty (30) day period. In the event that the service provider changes during the course of the interception, it is requested that interception be permitted to continue with the new service provider without further Order of the Court. Accordingly, it is requested that the Court's Order be binding on VIRGIN MOBILE USA L.P., SPRINT NEXTEL and any subsequent service provider, including but not limited to: Nextel Communications, Verizon New York, Inc., Verizon New Jersey, Inc., AT&T, AT&T Wireless, Verizon Wireless, MCI Telecommunications Corp., MCI WorldCom, Cingular Wireless, T-Mobile U.S.A. and (hereafter referred to collectively as the "Other Relevant Providers"), which provides service to the SUBJECT TELEPHONE upon service of a certified copy of the Court's Order, without further Order of this Court being required. The United States will advise the Court of the change of service provider in the periodic progress reports submitted to this Court.

Background Conversation. IT IS REQUESTED FURTHER THAT THE COURT ORDER that the authorization apply to background conversations intercepted in the vicinity of the SUBJECT TELEPHONE while the SUBJECT TELEPHONE is off the hook or otherwise in use.

Use of Interpreters. IT IS REQUESTED FURTHER THAT THE COURT ORDER that in the event any of the wire communications are conducted in a language other than English, all law enforcement officers described above may utilize an interpreter in the language being spoken, operating under a contract with the Government and acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception, to interpret, monitor, intercept and record any such conversations under the direct supervision of a DEA agent or other deputized law enforcement officer in the event an interpreter who is a federal agent is unavailable.

IT IS REQUESTED FURTHER THAT THE COURT ORDER that, in the event any of the wire communications are conducted in a language other than English and/or are in code, and there is not reasonably available during the interception period an expert in the foreign language or code, minimization shall be accomplished as soon as practicable after such interception.

Transfer of the SUBJECT TELEPHONE Outside the Eastern District of New York. IT IS REQUESTED FURTHER THAT THE COURT ORDER that in the event that the SUBJECT TELEPHONE is transferred outside the territorial jurisdiction of this Court, interceptions may take place in any other jurisdiction within the United States.

Providing Technical and Other Assistance. IT IS REQUESTED FURTHER THAT THE COURT ORDER that, pursuant to Section 2518(4) of Title 18, United States Code, Virgin Mobile USA L.P., Sprint Nextel and the Other Relevant Providers, electronic communications service providers as defined in Section 2510(15) of Title 18, United States Code, shall furnish and continue to furnish the DEA with all information, facilities and technical assistance necessary to accomplish the interceptions unobtrusively and with a minimum of interference with the services that such providers are according the persons whose communications are to be intercepted, and to ensure an effective and secure installation of electronic devices capable of intercepting wire communications over the above-described telephone.

Compensation. IT IS REQUESTED FURTHER THAT THE COURT ORDER that Virgin Mobile USA L.P., Sprint Nextel and the Other Relevant Providers shall be compensated by the Applicant for reasonable expenses incurred in providing such facilities or assistance.

Disclosure. IT IS REQUESTED FURTHER THAT THE COURT ORDER that in order to avoid prejudice to this criminal investigation, Virgin Mobile USA L.P., Sprint Nextel and the Other Relevant Providers and their agents and employees shall not disclose or cause a disclosure of this Court's Orders or the request for information, facilities, and assistance by the DEA or the existence of the investigation to any person other than those of their agents and employees who require this information to accomplish the services requested. In particular, Virgin Mobile USA L.P., Sprint Nextel , the Other Relevant Providers and their agents and employees shall not make such disclosure to a lessee, telephone subscriber, or any interceptee or participant in the intercepted communications.

Subscriber and Toll Record Information. IT IS REQUESTED FURTHER THAT THE COURT ORDER that, pursuant to Title 18, United States Code, Section 2703(c)(1)(B)Virgin Mobile USA L.P., Sprint Nextel and the Other Relevant Providers, providers of electronic communications services as defined in Title 18, United States Code, Section 2510(15), shall disclose to the applicant and the DEA all published and non-published subscriber information and toll records and information relevant to this investigation, that is, all such information pertaining to the telephone numbers associated with telephones, digital display devices, and mobile telephones which place calls into or which receive calls from the SUBJECT TELEPHONE, which may be requested in furtherance of this investigation, within 24 hours of said request, including weekends and holidays, there being reason to believe that the contents of the information sought are relevant and material to a legitimate law enforcement inquiry as set forth more fully above.

Cell Site Information. IT IS REQUESTED FURTHER THAT THE COURT ORDER that Virgin Mobile USA L.P., Sprint Nextel and Other Relevant Providers shall enter the SUBJECT TELEPHONE number into a pen register, and supply originating and terminating cell site information pursuant to Title 18, United States Code, Sections 2703(d), 3122 and 3123.

GPS. IS FURTHER REQUESTED that, because the geographic location of the SUBJECT TELEPHONE derived from GPS, a global positioning system used by the SUBJECT TELEPHONE, and the general geographic location of the SUBJECT TELEPHONE derived from cell site information used by the SUBJECT TELEPHONE can be used to corroborate the observations of surveillance agents, this Court issue an order pursuant to 18 U.S.C. Sections 2703(c)(1)(B), 2703(c)(2) and 2703(d), directing that Virgin Mobile USA L.P., Sprint Nextel and other Relevant Providers, and any successor local, long distance, and wireless carriers, and any other local, long distance or wireless carrier servicing the above-described telephone shall provide the location of cell site/sector (physical address) at call origination (for outbound calling), call termination (for incoming calls), and, if reasonably available, during the progress of a call, for the SUBJECT TELEPHONE as well as, to the extent available, the GPS real time location of the SUBJECT TELEPHONE at call origination, call termination and during the progress of the call.

Notification of Change. IT IS REQUESTED FURTHER THAT THE COURT ORDER that Virgin Mobile USA L.P., Sprint Nextel and the Other Relevant Providers shall notify the applicant immediately if and when the ESN or telephone number for the SUBJECT TELEPHONE changes or is supplied to another service provider.

Minimization and Period of Authorization. IT IS REQUESTED FURTHER

THAT THE COURT ORDER that its Orders shall be executed as soon as practicable after they are signed and that all monitoring of wire communications shall be conducted in such a way as to minimize the interception and disclosure of the communications intercepted to those communications relevant to the pending investigation, in accordance with the minimization requirements of Chapter 119 of Title 18, United States Code. All individuals conducting the interception will be instructed concerning the steps they must take to avoid infringing upon any attorney-client privilege or other recognized privilege. The interception of wire communications authorized by this Order must terminate upon attainment of the authorized objectives or, in any event, at the end of thirty (30) days measured from the day on which investigative or law enforcement officers first begin to conduct an interception under this order or ten (10) days after this order is entered, whichever is earlier.

Monitoring of conversations will immediately terminate when it is determined that the conversation is unrelated to communications subject to interception under Chapter 119 of Title 18, United States Code. Interception must be suspended immediately when it is determined through voice identification, physical surveillance, or otherwise, that none of the named interceptees or any of their confederates, when identified, are participants in the conversation unless it is determined during the portion of the conversation already overheard that the conversation is criminal in nature.

Progress Reports. IT IS REQUESTED FURTHER THAT THE COURT ORDER that an Assistant U.S. Attorney familiar with the facts of the case shall provide the Court with a report on or about the tenth and twentieth days following the date of this Order showing what progress has been made toward achievement of the authorized objectives and the need for continued interception. If any of the aforementioned reports should become due on a weekend or holiday, it is requested further that such report become due on the next business day thereafter.

Service of Inventory/Return. IT IS REQUESTED FURTHER THAT THE COURT ORDER that no inventory or return of the results of the foregoing surveillance and interception is required to be made, other than the above-required reports, before 90 days from the date of the expiration of the Court's Order, or any extension of the Court's Order. It is requested further that, upon an ex parte showing of good cause to a judge of competent jurisdiction, the service of the above inventory or return may be postponed for a further reasonable period of time.

Sealing. IT IS REQUESTED FURTHER THAT THE COURT ORDER that the application, affidavit, Orders, and all interim reports filed with the Court with regard to this matter be sealed until further order of this Court, except that copies of the Orders, in full or redacted form, may be served on the DEA, Virgin Mobile USA L.P., Sprint Nextel and the Other Relevant Providers as necessary to effectuate the Court's Orders.

Dated: Brooklyn, New York
June 12, 2008

Amber Howell
Special Agent
DEA

Sworn to before me on June 12, 2008

Dora L. Irizarry

HON. DORA L. IRIZARRY
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK

TIME: 4:40 p.m.